

OCT 25 2018

Clerk, U.S. District Court
District Of Montana
MissoulaIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

VICTOR CHARLES FOURSTAR, JR.,

Defendant/Movant.

Cause No. CR 02-052-GF-DLC

ORDER

On October 17, 2018, the Court revoked Defendant Fourstar's term of supervised release and sentenced him to serve ten months in prison, to be followed by 39 months' supervised release.

On October 18, Fourstar, acting pro se despite being represented by counsel, filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. The Court dismissed most of his claims and denied others on October 22, 2017.

On the same day, Fourstar moved to amend his § 2255 motion and also to recuse Judges Morris and Johnston.

Neither Judge Morris nor Judge Johnston has played any role in Fourstar's case since February 23, 2017. *See Order Reassigning Case (Doc. 179).* The motion to recuse is moot.

As to the motion to amend, Fourstar was entitled to amend his pleading

once, so long as he did so before it was denied. But Fourstar's claim that a Montana legislative change in 2017 had something to do with his case must be raised on direct review. Allegations that his lawyer has not provided copies of certain cases (cases Fourstar is nonetheless able to describe and even quote) do not demonstrate that Fourstar has not been able to raise jurisdictional arguments. And even if they did, those arguments must be raised on direct review. *See Order* (Doc. 264) at 2 ¶ I.

A certificate of appealability, *see* 28 U.S.C. § 2253(c)(1)(B), is denied. The procedural law governing all of Fourstar's claims is well-settled. *See Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012).

Accordingly, IT IS HEREBY ORDERED:

1. Fourstar's motion to recuse Judges Morris and Johnston (Doc. 266) is DENIED AS MOOT.
2. The claims in Fourstar's motion to amend (Doc. 267) are DISMISSED.
3. A certificate of appealability is DENIED. The clerk shall immediately process the appeal if Fourstar files a notice of appeal.

DATED this 25th day of October, 2018.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court